

GUIDELINE H-3
(formerly 16-07)

**Guideline on Public Access to
Reports from External Parties**

Legislative Authority:

Environmental Protection Act
Ontario Water Resources Act
Environmental Assessment Act
Pesticides Act

Responsible Director:

Director, Communications Branch

Last Revision Date:

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SYNOPSIS

The primary purpose of this guideline is to provide for public access to reports that the Ministry receives pursuant to its environmental legislation and mandate. The intent of the guideline is to ensure access to externally-provided reports, in accordance with the requirements of the *Freedom of Information and Protection of Privacy Act*, while at the same time respecting the public access, confidentiality and privacy requirements of other Ministry legislation.

1.0 Definitions

External Parties:

Any organizations, companies, agencies or individuals submitting reports pursuant to the Ministry's role in the management of emissions, depositions and discharges to the natural environment

Reports:

Any document submitted directly to the Ministry by an external party which quantifies any contaminant or material emitted, deposited or discharged, or proposed to be emitted, deposited or discharged, to the natural environment, or which describes measures to contain or control such contaminant or material

Major Interest Reports:

Reports which detail significant public health or environmental issues

2.0 External Report Preparations

External reports, other than prescribed forms, shall be prepared to facilitate public access and the protection of confidentiality and personal privacy as follows.

2.1 Report Format

Ministry staff shall request external parties submitting reports to prepare them in such a format that any information for which they may make a claim of confidentiality or privacy not be included in the body of the report, but be provided as a separate appendix.

2.2 Certification of Confidentiality Claim

Parties making confidentiality or privacy claims shall be expected to specify, in writing, as part of the document:

- (a) what information is to be kept confidential or private;
- (b) the rationale for the claim;
- (c) what legislation authorizes the claim; and,
- (d) what consequences would likely follow from access to the information.

3.0 Examination of Confidentiality Claims

- (a) The Director, in receipt of an external report including a confidentiality or privacy claim, shall consult with the Director of the Legal Services Branch where the factors relating to the claim are complex or unclear. The Director is encouraged to consult with the Director of the Legal Services Branch where, at his/her discretion, such consultation would be beneficial.
- (b) If the claim is accepted, either initially by the Director in receipt of the report or after the consultation referred to in (a), then no further action regarding the claim is necessary.
- (c) If the claim is rejected, then the Director in receipt of the report is authorized to:
 - (i) provide for public access to the portion of the report not in dispute; and
 - (ii) advise the external party of the Director's intention to provide public access to any portion of the appendix in accordance with the *Freedom of Information and Protection of Privacy Act* requirements for which a privilege claim has been denied, unless within 30 days, further valid argument can be made in support of the privilege claim.
- (d) If there is a difference of opinion between the Director in receipt of the report and the Director of Legal Services, then the Division Head shall to be apprised of the issue to be resolved.

4.0 Ensuring of Public Access

4.1 Routine Reports

The Director shall ensure public access to all routine reports, except to those portions of which the external party makes a

valid claim pursuant to Section 3.0 above.

The document, or copies of same, should be available for public inspection at the relevant District, Regional or Branch Office, as necessary.

4.2 Major Interest Reports

The Director shall determine whether a report is of major interest.

Where a report is considered by the Director to be of major interest, a Ministry notification shall be prepared by the Communications Branch, including:

- (a) an announcement that the report has been received by the Ministry;
- (b) an announcement describing where and when the report can be examined by the public; and,
- (c) future Ministry action regarding the report, where appropriate.

The Communications Branch shall plan appropriate communication activities and be responsible for the release of the Ministry notification regarding external reports of major interest.